

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SEYYED JAVAD MAADANIAN,  
LEONARDO CACHO, RUBEN CHARLES,  
CARL CLARK, LINDA CREA, SR.,  
BRANDON DUELING, ROXIE HARRIS,  
WENDER JEUDY, WANDA JONES, SEAN  
K. LEE, TINA MARIE, LETITIA  
MATTHEWS, ROBERT MCCUMSEY,  
RULESHA MCKINNEY, BIANCA ORTIZ,  
FRANCY DIAZ PEREZ, JAMES POWELL,  
ANTHONY PYLES, ELLERY RICHARD,  
JEFFREY ROBINSON, MARCIO SINELLI,  
THOMAS STEFANOPOULOS, BETTY  
WALTON, JENNIFER WALKER, HUEY  
WILLIAMS, and ANTONIO WYNN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

MERCEDES-BENZ USA, LLC,  
MERCEDES-BENZ  
AKTIENGESELLSCHAFT, and  
MERCEDES-BENZ GROUP  
AKTIENGESELLSCHAFT,

Defendants.

Case No. 2:22-cv-00665-RSL

**MOTION OF DEFENDANTS  
MERCEDES-BENZ USA, LLC,  
MERCEDES-BENZ GROUP AG, AND  
MERCEDES-BENZ AG TO DISMISS  
PLAINTIFFS' SECOND AMENDED  
COMPLAINT FOR LACK OF  
PERSONAL JURISDICTION (FRCP  
RULE 12(B)(2))**

**NOTE ON MOTION CALENDAR:  
January 13, 2023**

**ORAL ARGUMENT REQUESTED**

DEFENDANTS' MOT. TO DISMISS FOR  
LACK OF PERSONAL JURISDICTION  
CASE NO. 2:22-cv-00665-RSL

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107

**TABLE OF CONTENTS**

		<u>Page</u>
1		
2		
3	INTRODUCTION AND RELIEF REQUESTED.....	1
4	MEMORANDUM OF AUTHORITIES.....	1
5	I. FACTUAL BACKGROUND.....	1
6	II. LEGAL STANDARD.....	3
7	III. ARGUMENT.....	4
8	A. The SAC Should Be Dismissed Because Plaintiffs’ Asserted Basis for	
9	Personal Jurisdiction in This Case Is Invalid.....	4
10	B. The Court Cannot Exercise General Jurisdiction over Defendants	
11	Because They Are Not “Essentially At Home” in Washington.....	5
12	C. The Court Cannot Exercise Specific Jurisdiction Because Plaintiffs’	
13	Claims Do Not Have a Substantial Connection to Any Defendant’s	
14	Contacts with Washington .....	6
15	1. Plaintiffs Do Not Allege Sufficient Facts to Establish Specific	
16	Jurisdiction Over Defendants in Washington as to Any of Their	
17	Claims .....	7
18	2. The Non-Washington Plaintiffs’ Claims Should Be Dismissed	
19	Under <i>Bristol-Meyers</i> .....	10
20	3. The Presence of a Third-Party Affiliate in Washington Does Not	
21	Subject Defendants to Personal Jurisdiction.....	13
22	CONCLUSION.....	15
23		
24		
25		
26		

## TABLE OF AUTHORITIES

Page**Cases**

<i>AM Tr. v. UBS AG</i> , 681 Fed. App'x 587 (9th Cir. 2017) .....	5
<i>AMA Multimedia, LLC</i> , 970 F.3d 1201, 1207 (9th Cir. 2020) .....	3
<i>Arias v. Mercedes-Benz USA, LLC</i> , 2021 U.S. Dist. LEXIS 63082 (M.D. La. Mar. 30, 2021) .....	8
<i>Axiom Foods, Inc. v. Acerchem Int'l, Inc.</i> , 874 F.3d 1064 (9th Cir. 2017) .....	6, 14
<i>BNSF Ry. Co. v. Tyrrell</i> , 137 S. Ct. 1549 (2017) .....	6
<i>In re Boon Blob. Ltd.</i> , 923 F.3d 643 (9th Cir. 2019) .....	3, 4
<i>Bray v. Kendall</i> , 2010 U.S. Dist. LEXIS 281 (N.D. Cal. Jan. 5, 2010) .....	5
<i>Bristol-Myers Squibb Co. v. Superior Ct. of California</i> , 137 S. Ct. 1773 (2017) .....	<i>passim</i>
<i>Butcher's Union Local No. 498 v. SDC Inv., Inc.</i> , 788 F.2d 535 (9th Cir. 1986) .....	5
<i>Calder v. Jones</i> , 465 U.S. 783 (1984) .....	4
<i>Core-Vent Corp. v. Nobel Indus. AB</i> , 11 F.3d 1482 (9th Cir. 1993) .....	9
<i>Cork v. CC-Palo Alto, Inc.</i> , 534 F. Supp. 3d 1156 (N.D. Cal. 2021) .....	14
<i>Daimler AG v. Bauman</i> , 571 U.S. 117 (2014) .....	4, 5
<i>Doe v. Unocal Corp.</i> , 248 F.3d 915 (9th Cir. 2001) .....	13

1	<i>Doe v. Walmart Inc.</i> ,	
2	2019 U.S. Dist. LEXIS 21975 (N.D. Cal. Feb. 8, 2019) .....	5
3	<i>Dupree v. Mercedes-Benz USA, LLC</i> ,	
4	2019 U.S. Dist. LEXIS 225254 (W.D. La. Dec. 26, 2019), <i>report and</i>	
5	<i>recommendation adopted</i> , 2020 U.S. Dist. LEXIS 9220 (W.D. La. Jan. 16,	
6	2020); .....	8
7	<i>Ford Motor Co. v. Montana Eighth Judicial Dist. Court</i> ,	
8	141 S. Ct. 1017 (2021) .....	12
9	<i>Gaillet v. Ford Motor Co.</i> ,	
10	2017 U.S. Dist. LEXIS 67234 (E.D. Mich. May 3, 2017) .....	8
11	<i>Gaines v. General Motors, LLC</i> ,	
12	2018 U.S. Dist. LEXIS 133019 (S.D. Cal. Aug. 7, 2018) .....	12
13	<i>Goldstein v. General Motors LLC</i> ,	
14	445 F. Supp. 3d 1000 (S.D. Cal. 2020) .....	12
15	<i>Goodyear Dunlop Tires Operations, S.A. v. Brown</i> ,	
16	564 U.S. 915 (2011) .....	3, 4, 6
17	<i>Hanson v. Denckla</i> ,	
18	357 U.S. 235 (1958) .....	11
19	<i>Holland Am. Line Inc. v. Wartsila N. Am., Inc.</i> ,	
20	485 F.3d 450 (9th Cir. 2007) .....	8
21	<i>U.S. ex rel. Imco Gen. Const., Inc. v. Ins. Co. of Pa.</i> ,	
22	2014 U.S. Dist. LEXIS 123648 (W.D. Wash. Sept. 3, 2014) .....	3
23	<i>Kastigar v. Mercedes-Benz USA, LLC</i> ,	
24	2022 U.S. Dist. LEXIS 69714 (D. Ariz. Apr. 14, 2022), <i>report and</i>	
25	<i>recommendation adopted</i> , 2022 U.S. Dist. LEXIS 116910 (D. Ariz. June 30,	
26	2022) .....	15
	<i>Lee v. Abdel-Haq</i> ,	
	2013 U.S. Dist. LEXIS 20260 (W.D. Wash. Feb. 14, 2013) .....	13, 14
	<i>LNS Enterprises LLC v. Continental Motors, Inc.</i> ,	
	22 F.4th 852 (9th Cir. 2022) .....	8
	<i>Martinez v. Aero Caribbean</i> ,	
	764 F.3d 1062 (9th Cir. 2014) .....	5

DEFENDANTS' MOT. TO DISMISS FOR  
LACK OF PERSONAL JURISDICTION - iii  
CASE NO. 2:22-cv-00665-RSL

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107

1	<i>Morrill v. Scott Fin. Corp.</i> ,	
2	873 F.3d 1136 (9th Cir. 2017) .....	3
3	<i>Murphy v. DirecTV, Inc.</i> ,	
4	724 F.3d 1218 (9th Cir. 2013) .....	14
5	<i>Ranza v. Nike, Inc.</i> ,	
6	793 F.3d 1059 (9th Cir. 2015), <i>cert. denied</i> , 577 U.S. 1104 (2016).....	13
7	<i>Ratha v. Phatthana Seafood Co., Ltd.</i> ,	
8	26 F.4th 1029 (9th Cir. 2022) .....	14
9	<i>Schwarzenegger v. Fred Martin Motor Co.</i> ,	
10	374 F.3d 797 (9th Cir. 2004) .....	6, 7
11	<i>Shute v. Carnival Cruise Lines</i> ,	
12	113 Wash. 2d 763 (1989).....	3
13	<i>Spratley v. FCA US LLC</i> ,	
14	2017 U.S. Dist. LEXIS 147492 (N.D.N.Y. Sept. 12, 2017) .....	12
15	<i>Walden v. Fiore</i> ,	
16	571 U.S. 277 (2014).....	4, 6
17	<i>Williams v. Yamaha Motor Co.</i> ,	
18	851 F.3d 1015 (9th Cir. 2017) .....	14
19	<i>World-Wide Volkswagen Corp. v. Woodson</i> ,	
20	444 U.S. 286 (1980).....	3, 11
21	<b>Statutes</b>	
22	18 U.S.C. § 1961 .....	1, 4, 5, 15
23	18 U.S.C. § 1965(d) .....	1, 4, 5, 13
24	RCW 4.28.185 .....	3
25	<b>Other Authorities</b>	
26	Federal Rules of Civil Procedure Rule 12(b)(2) .....	1, 16
	Restatement (Third) of Agency § 1.01 cmt. g (2006) .....	14
	United States Constitution Due Process Clause.....	1, 3, 5, 15

## INTRODUCTION AND RELIEF REQUESTED

Plaintiffs’ only allegations purporting to establish personal jurisdiction over Defendants are found in paragraph 11 of the Second Amended Complaint (“SAC”), and they rely on 18 U.S.C. § 1965(d). But that statute by its terms applies only to claims brought under the Racketeering Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961 *et seq.* Plaintiffs do not plead any RICO claims, and section 1965(d) is not jurisdictional in any event. The SAC should be dismissed for these reasons alone.

Even if the Court is willing to go beyond paragraph 11, it will find no bases for personal jurisdiction that satisfy the Due Process Clause of the United States Constitution. As is evident from plaintiffs’ SAC, and reaffirmed in the Declaration of Gregory Gunther (“Gunther Decl.”), the Defendant entities are all formed and have their principal places of business outside Washington and are therefore not “essentially at home” here, precluding general personal jurisdiction. Nor do Plaintiffs allege facts that would establish their claims arise out of or relate to any contacts by Defendants with Washington, precluding specific personal jurisdiction.

Indeed, of the 26 named Plaintiffs, only one alleges he is a resident of Washington. As discussed below, the Supreme Court’s decision in *Bristol-Myers Squibb Co. v. Superior Ct. of California*, 137 S. Ct. 1773 (2017), alone plainly disqualifies the Court from adjudicating the claims of the 25 remaining Plaintiffs who are not Washington residents and do not allege any injury in Washington.

Under Rule 12(b)(2) of the Federal Rules of Civil Procedure, the SAC should be dismissed for lack of personal jurisdiction over Defendants.

## MEMORANDUM OF AUTHORITIES

### I. FACTUAL BACKGROUND

Plaintiffs allege they own various Mercedes-Benz vehicles with allegedly defective brake boosters. *See* SAC ¶¶ 13-66. Each Plaintiff also alleges the state and town or county in which he

1 or she lives; only Plaintiff Maadanian alleges he lives in Washington. *Id.* In other words, of the  
 2 26 Plaintiffs, 25 of them allege they live in states other than Washington. *Id.*

3 No Plaintiffs allege they purchased their vehicle in Washington, nor that their vehicles were  
 4 manufactured in Washington – including Maadanian, the sole alleged Washington resident. *See*  
 5 *generally* SAC. No Plaintiffs allege they have ever had brake booster issues in Washington. *Id.*  
 6 No Plaintiffs allege they ever viewed, heard, or received any advertising or other communication  
 7 in Washington. *Id.* Maadanian, the sole Washington resident, alleges only that he “called” an  
 8 unidentified “local Mercedes dealership” about his brake booster issue. *Id.* ¶ 13. Had he contacted  
 9 defendant Mercedes-Benz USA, LLC (“MBUSA”) directly about his brake booster he would have  
 10 been informed that MBUSA would have paid for a rental car, and would have provided towing to  
 11 an authorized dealership for inspection. Gunther Decl. ¶ 6.

12 Plaintiffs do not allege MBUSA was formed in Washington. It is in fact a Delaware limited  
 13 liability company and, as Plaintiffs acknowledge, it is headquartered in Sandy Springs, GA.  
 14 Gunther Decl. ¶ 2; SAC ¶ 71. Plaintiffs also acknowledge defendants Mercedes-Benz Group AG  
 15 (MBG) and Mercedes-Benz AG (MBAG) are both German *Aktiengesellschaft*, or public stock  
 16 companies, with their principal places of business in Stuttgart, Germany. SAC ¶¶ 67, 69.

17 For purposes of their jurisdictional allegations, Plaintiffs also identify Mercedes-Benz  
 18 Research & Development North America, Inc. (“MBRDNA”) as maintaining an office in  
 19 Washington. SAC ¶ 11. Tellingly, Plaintiffs have not named MBRDNA as a Defendant,  
 20 presumably because they know they have no good faith basis for suing MBRDNA. *See also*  
 21 Gunther Decl. ¶ 5 (“MBRDNA had no involvement, in Washington or anywhere else, with the  
 22 brake boosters at issue in this lawsuit, including their design, manufacture, sale, or testing.”).

23 As is typical in the automotive industry, Mercedes-Benz dealers and service shops in  
 24 Washington are independently owned and operated companies. Gunther Decl. ¶ 4. Plaintiffs do  
 25  
 26

not allege otherwise, suggesting only in conclusory terms that they are “maintained” by Defendants. SAC ¶ 72.

## II. LEGAL STANDARD

When, as here, “a defendant moves to dismiss for lack of personal jurisdiction, the plaintiff bears the burden of demonstrating that jurisdiction is appropriate.” *Morrill v. Scott Fin. Corp.*, 873 F.3d 1136, 1141 (9th Cir. 2017) (quotation marks omitted). When, as here, defendants submit evidence, a plaintiff may not “simply rest on the bare allegations of [the] complaint” and instead must “make a prima facie showing of jurisdictional facts.” *AMA Multimedia, LLC*, 970 F.3d 1201, 1207 (9th Cir. 2020) (quoting *In re Boon Blob. Ltd.*, 923 F.3d 643, 650 (9th Cir. 2019)).

To establish personal jurisdiction, a plaintiff must show that (1) the forum state’s long-arm statute confers personal jurisdiction over the out-of-state defendant, and (2) the exercise of personal jurisdiction does not violate federal due process. *Id.* Washington’s long-arm statute, RCW 4.28.185, “extends jurisdiction to the limit of federal due process.” *Shute v. Carnival Cruise Lines*, 113 Wash. 2d 763, 771 (1989). “The Court therefore need determine only whether the exercise of jurisdiction comports with federal constitutional requirements.” *U.S. ex rel. Imco Gen. Const., Inc. v. Ins. Co. of Pa.*, 2014 U.S. Dist. LEXIS 123648, at \*4 (W.D. Wash. Sept. 3, 2014).

“Because ‘[a] state court’s assertion of jurisdiction exposes defendants to the State’s coercive power,’ it is ‘subject to review for compatibility with the Fourteenth Amendment’s Due Process Clause,’ which ‘limits the power of a state court to render a valid personal judgment against a nonresident defendant.’” *Bristol-Myers*, 137 S. Ct. at 1779 (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 918 (2011), and *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291 (1980)). The Due Process Clause requires plaintiffs to establish this Court has either “general or all-purpose jurisdiction, [or] specific or case-linked jurisdiction,” over each defendant. *Goodyear*, 564 U.S. at 919. “A court with general jurisdiction may hear *any* claim against that defendant, even if all the incidents underlying the claim occurred in a different



State.” *Bristol-Myers*, 137 S. Ct. at 1780 (emphasis in original). For that reason, “‘only a limited set of affiliations with a forum will render a defendant amenable to’ general jurisdiction in that State.” *Id.* (quoting *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014)). “To exercise specific jurisdiction,” on the other hand, “‘the *suit*’ must ‘aris[e] out of or relat[e] to the defendant’s contacts with the *forum*.’” *Id.* (quoting *Daimler*, 571 U.S. at 127)). “In other words, there must be ‘an affiliation between the forum and the underlying controversy, principally [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State’s regulation.” *Id.* (quoting *Goodyear*, 564 U.S. at 919).

To determine whether due process is satisfied, “each party’s ‘contacts with the forum [s]tate must be assessed individually.’” *In re Boon Global Ltd.*, 923 F.3d at 651 (quoting *Calder v. Jones*, 465 U.S. 783, 790 (1984)); *see also Walden v. Fiore*, 571 U.S. 277, 286 (2014) (“[A] defendant’s relationship with a plaintiff, or third party, standing alone, is an insufficient basis for jurisdiction.”).

### III. ARGUMENT

Plaintiffs have not met their burden to establish either general or specific jurisdiction over any Defendant, much less all three. But the Court need not reach that issue because Plaintiffs only claim the Court has personal jurisdiction under an inapplicable provision of RICO.

#### A. The SAC Should Be Dismissed Because Plaintiffs’ Asserted Basis for Personal Jurisdiction in This Case Is Invalid

The only contention Plaintiffs offer for asserting personal jurisdiction over Defendants is in paragraph 11 of the SAC, where they claim “[t]his Court has personal jurisdiction over defendants under 18 U.S.C. § 1965(d) because Defendants are found, have agents, and transact substantial business in this District.” Section 1965(d) states: “All other process in any action or proceeding *under this chapter* may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.” (Emphasis added.) The chapter in

1 which this provision is found is RICO, which begins at 18 U.S.C. § 1961. Hence, section 1965(d)  
 2 applies only to RICO claims and is inapplicable here, where Plaintiffs do not plead a RICO claim.

3 Moreover, courts in this Circuit have pointed out that, even in RICO cases, section 1965(d)  
 4 does not confer personal jurisdiction. *See Doe v. Walmart Inc.*, 2019 U.S. Dist. LEXIS 21975, at  
 5 \*20 (N.D. Cal. Feb. 8, 2019) (“no court has found that these statutory provisions [i.e., 18 U.S.C. §  
 6 1965(a) and (d)] confer jurisdiction”); *Bray v. Kendall*, 2010 U.S. Dist. LEXIS 281, at \*7-\*12  
 7 (N.D. Cal. Jan. 5, 2010); *see also Butcher’s Union Local No. 498 v. SDC Inv., Inc.*, 788 F.2d 535,  
 8 539 (9th Cir. 1986) (court must have “personal jurisdiction over at least one of the participants in  
 9 [an] alleged multidistrict [RICO] conspiracy and the plaintiff must show that there is no other  
 10 district in which a court will have personal jurisdiction over all of the alleged co-conspirators”).

11 In sum, because Plaintiffs rely solely on this inapplicable RICO statute as their basis for  
 12 alleging personal jurisdiction over Defendants, the SAC should be dismissed. Even if the Court  
 13 were to go beyond Plaintiffs’ asserted basis for personal jurisdiction, however, the result should  
 14 be the same, as explained below.

15 **B. The Court Cannot Exercise General Jurisdiction over Defendants Because They Are  
 Not “Essentially At Home” in Washington**

16 Under the Due Process Clause of the U.S. Constitution, general jurisdiction is proper “only  
 17 when the corporation’s affiliations with the State in which suit is brought are so constant and  
 18 pervasive as to render it essentially at home in the forum State.” *Daimler*, 571 U.S. at 122  
 19 (punctuation and citations omitted). For a corporation, this almost always means it is subject to  
 20 general jurisdiction only in its “place of incorporation and principal place of business.” *Id.* at 137,  
 21 139; *AM Tr. v. UBS AG*, 681 Fed. App’x 587, 588 (9th Cir. 2017) (“[A] corporation is typically  
 22 subject to general personal jurisdiction only in a forum where it is incorporated or where it  
 23 maintains its principal place of business.”). “Only in an ‘exceptional case’ will general jurisdiction  
 24 be available anywhere else.” *Martinez v. Aero Caribbean*, 764 F.3d 1062, 1070 (9th Cir. 2014).  
 25 This is “an exacting standard, as it should be, because a finding of general jurisdiction permits a  
 26

1 defendant to be haled into court in the forum state to answer for any of its activities anywhere in  
 2 the world.” *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 801 (9th Cir. 2004).

3 Plaintiffs do not allege any of the Defendants are incorporated or have their principal places  
 4 of business in Washington. Rather, Plaintiffs acknowledge MBUSA’s headquarters are in Sandy  
 5 Springs, Georgia, and it is a Delaware limited liability company. SAC ¶ 67; Gunther Decl. ¶ 2.  
 6 Plaintiffs also acknowledge that the other two Defendants are both German *Aktiengesellschaft*  
 7 (public stock companies) based in Stuttgart, Germany. SAC ¶¶ 69, 71. None of the Defendants  
 8 are “essentially at home” in Washington, so courts in Washington may not assert general  
 9 jurisdiction over any of them. *See, e.g., BNSF Ry. Co. v. Tyrrell*, 137 S. Ct. 1549, 1558-59 (2017)  
 10 (Montana court lacked general jurisdiction over defendant railroad that had more than 2,000 miles  
 11 of track in Montana and employed more than 2,000 persons in that state); *Goodyear*, 564 U.S. at  
 12 930 n.6 (“even regularly occurring sales of a product in a State do not justify the exercise of  
 13 jurisdiction over a claim unrelated to those sales”).

14 **C. The Court Cannot Exercise Specific Jurisdiction Because Plaintiffs’ Claims Do Not  
 15 Have a Substantial Connection to Any Defendant’s Contacts with Washington**

16 In the absence of general jurisdiction, a state court’s authority to bind non-resident  
 17 defendants “focuses on the relationship among the defendant, the forum, and the litigation.” *Axiom*  
 18 *Foods, Inc. v. Acerchem Int’l, Inc.*, 874 F.3d 1064, 1068 (9th Cir. 2017) (quoting *Walden*, 134 S.  
 19 Ct. at 1121). “Specifically, ‘the defendant’s suit-related conduct must create a substantial  
 20 connection with the forum State.’” *Id.* (quoting *Bristol-Myers*, 137 S. Ct. at 1780). Further, the  
 21 Supreme Court has made clear that where “[t]he relevant plaintiffs are not residents” of the state  
 22 in which the action is brought “and do not claim to have suffered harm in that State,” there can be  
 23 no personal jurisdiction because “the conduct giving rise to the nonresidents’ claims occurred  
 24 elsewhere.” *Bristol-Myers*, 137 S. Ct. at 1782.

25 Here, Plaintiffs have failed to meet their burden to establish specific jurisdiction as to any  
 26 defendant for two separate reasons. First, Plaintiffs have failed to allege sufficient facts to establish

that any Defendant has minimum contacts with Washington out of which any Plaintiff's claims arose. Second, the non-Washington Plaintiffs' claims are clearly barred by *Bristol-Myers*.

**1. Plaintiffs Do Not Allege Sufficient Facts to Establish Specific Jurisdiction Over Defendants in Washington as to Any of Their Claims**

For the exercise of specific jurisdiction to comport with due process, a three-prong test must be satisfied with respect to each claim against each Defendant individually:

(1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws;

(2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and

(3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable.

*Schwarzenegger*, 374 F.3d at 802. The Plaintiff bears the initial burden of establishing the first two prongs. *Id.* If the Plaintiff fails to satisfy either of these prongs with respect to any given claim or any given Defendant, the Court may not assert specific jurisdiction over that Defendant. *Id.* Even if the first two prongs are established, however, jurisdiction should not be asserted if it would be unreasonable on the facts of the case. *Id.* Proving this is Defendants' burden. *Id.*

The Court need not reach the third prong here, however, because Plaintiffs cannot meet their threshold burden to satisfy the first two prongs as to any Defendant. The claims at issue have various elements, but the gist of them all is that Plaintiffs' vehicles are defective but were knowingly sold and marketed as though they were not. Even assuming Plaintiffs can establish one or more Defendants had purposeful contacts with Washington – and Plaintiffs cannot even meet this prong for the two German Defendants – Plaintiffs do not allege their claims arise out of or relate to those contacts.<sup>1</sup> Specifically, no Plaintiff alleges he or she purchased a Class Vehicle in

<sup>1</sup> Although U.S. company MBUSA is registered to do business in Washington, neither of the German companies are so registered or otherwise have "purposeful" contacts with Washington. As Plaintiffs note, MBAG manufactures Mercedes-Benz vehicles, with MBG as its parent company. SAC ¶¶ 67, 69. But those vehicles are imported into and distributed in the U.S. by MBUSA. *Id.* ¶¶ 70, 71; Gunther Decl. ¶ 3. As the Ninth Circuit has recently reiterated: "Placing 'a product into the stream of commerce' even if the Defendant is aware 'that the stream of commerce may or will sweep the product into the forum state' . . . 'does not convert the mere act of placing the product into the stream of commerce into an act'

1 Washington; viewed, heard, or received any allegedly misleading communication in the state; or  
 2 received any repair or service in Washington.

3 Even Plaintiff Maadanian, the sole Plaintiff to allege Washington residence, does not allege  
 4 any Defendant entered into any transaction with him, or communicated anything to him, in  
 5 Washington. He does not allege he purchased his vehicle in Washington. He alleges only that,  
 6 one time, in connection with the brake booster issue, he “called his local Mercedes dealership”  
 7 (SAC ¶ 13), but he does not identify the dealership, or its location, or its relationship to Defendants.

8 Even if the dealership was in Washington and was one with which any Defendant had a  
 9 relationship, Defendants do not operate the dealerships. Gunther Decl. ¶¶ 3, 4. As courts have  
 10 recognized, specific jurisdiction over MBUSA cannot be premised on its relationship with in-state  
 11 dealerships where “any repairs were made by the independently owned and operated authorized  
 12 dealer and not by MBUSA.” *Dupree v. Mercedes-Benz USA, LLC*, 2019 U.S. Dist. LEXIS 225254,  
 13 at \*12 (W.D. La. Dec. 26, 2019), *report and recommendation adopted*, 2020 U.S. Dist. LEXIS  
 14 9220 (W.D. La. Jan. 16, 2020); *Arias v. Mercedes-Benz USA, LLC*, 2021 U.S. Dist. LEXIS 63082,  
 15 at \*11 (M.D. La. Mar. 30, 2021) (finding no specific jurisdiction where “Defendant provides  
 16 service and technical information to the independent Louisiana dealerships by periodically issuing  
 17 technical and dealer bulletins” but “does not directly make warranty repairs to” vehicles in the  
 18 state); *see also Gaillet v. Ford Motor Co.*, 2017 U.S. Dist. LEXIS 67234, at \*2-3 (E.D. Mich. May  
 19 3, 2017) (no personal jurisdiction over Ford Motor Co. where Ford did not “directly service its  
 20 vehicles in Mississippi,” notwithstanding that it “provide[d] service and technical information to  
 21 Mississippi dealerships”). Thus, whatever interaction Mr. Maadanian alleges he had with a “local  
 22 Mercedes dealer” is not sufficient to confer personal jurisdiction over any Defendant with respect  
 23 to his claims.

24  
 25  
 26 of purposeful availment.” *LNS Enterprises LLC v. Continental Motors, Inc.*, 22 F.4th 852, 860 (9th Cir. 2022) (quoting  
*Holland Am. Line Inc. v. Wartsila N. Am., Inc.*, 485 F.3d 450, 459 (9th Cir. 2007)).

DEFENDANTS’ MOT. TO DISMISS FOR  
 LACK OF PERSONAL JURISDICTION - 8  
 CASE NO. 2:22-cv-00665-RSL

LANE POWELL PC  
 1420 FIFTH AVENUE, SUITE 4200  
 P.O. BOX 91302  
 SEATTLE, WA 98111-9402  
 206.223.7000 FAX: 206.223.7107

1 Notably, Mr. Maadanian does not claim to have contacted MBUSA directly about his brake  
 2 booster issue. Had he done so, MBUSA would have informed him it would pay for a rental car,  
 3 and that it would provide for towing to an authorized dealership for inspection. Gunther Decl. ¶  
 4 6. Hence, even assuming Maadanian incurred such out-of-pocket expenses in Washington, or was  
 5 denied towing by a dealership, his alleged loss was not caused by anything MBUSA did – in  
 6 Washington or anywhere else.

7 Finally, because plaintiffs have not carried their burden to establish the first two prongs of  
 8 the minimum contacts analysis, the Court need not consider the third prong, whether exercise of  
 9 jurisdiction would be reasonable. But that analysis, too, undermines the exercise of personal  
 10 jurisdiction in this case. The Ninth Circuit has articulated seven factors to be considered in  
 11 determining reasonableness: “(1) the extent of the defendants' purposeful interjection into the  
 12 forum state's affairs; (2) the burden on the defendant of defending in the forum; (3) the extent of  
 13 conflict with the sovereignty of the defendants' state; (4) the forum state's interest in adjudicating  
 14 the dispute; (5) the most efficient judicial resolution of the controversy; (6) the importance of the  
 15 forum to the plaintiff's interest in convenient and effective relief; and (7) the existence of an  
 16 alternative forum.” *Core-Vent Corp. v. Nobel Indus. AB*, 11 F.3d 1482, 1487-88 (9th Cir. 1993).  
 17 The majority of these factors weigh decisively against jurisdiction.

18 The burden of defending in Washington is significant for MBUSA, which resides in  
 19 Georgia, and even greater for MBAG and MBG, which reside in Germany. Likewise, the conflict  
 20 of sovereigns is significant; Plaintiffs bring a dizzying array of claims under the laws of other  
 21 states, which have far more interest in administering and interpreting those laws than Washington  
 22 does, especially where their own citizens are concerned. Conversely, Washington has little interest  
 23 in adjudicating a case with vague, nationwide allegations not concretely tethered to incidents or  
 24 transactions in Washington. The forum itself is not particularly important to Plaintiffs' interests,  
 25  
 26

1 especially given only one of 26 Plaintiffs claim to live in Washington, and, in any event, there are  
2 alternative fora.

3 In sum, there is no specific personal jurisdiction because Plaintiffs do not allege any claims  
4 arising out of or related to any contacts by Defendants with Washington, and the assertion of  
5 jurisdiction would be unreasonable in any event. The Court should dismiss the entire SAC.

6 **2. The Non-Washington Plaintiffs' Claims Should Be Dismissed Under *Bristol-Meyers***

7 The Supreme Court made clear in *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct.  
8 1773 (2017), that this Court lacks specific personal jurisdiction over defendants as to claims of the  
9 25 Plaintiffs who do not allege a connection to Washington, even assuming Defendants themselves  
10 have Washington contacts. Specific jurisdiction requires “a connection between the forum and the  
11 specific claims at issue.” *Id.* at 1781. That connection clearly does not exist here between  
12 Washington and the claims of the non-Washington Plaintiffs.

13 *Bristol-Myers* involved claims brought against drug-maker Bristol-Myers Squibb (“BMS”) in  
14 California, alleging BMS’s blood-thinner drug Plavix was defective and caused injury. BMS  
15 moved to dismiss many of the plaintiffs’ claims for lack of personal jurisdiction because those  
16 plaintiffs could not establish their injuries were caused by anything BMS had done in California.  
17 *Id.* at 1778. Rejecting BMS’s argument, the California Supreme Court applied a “sliding scale  
18 approach to specific jurisdiction,” in which it held that “the more wide ranging the defendant’s  
19 forum contacts, the more readily is shown a connection between the forum contacts and the claim.”  
20 Thus, the California Supreme Court found BMS’s “extensive contacts with California” – including  
21 five research and laboratory facilities, 160 research employees, 250 sales representatives, and a  
22 state government advocacy office – allowed the trial court to exercise specific jurisdiction over  
23 BMS even though there was no connection between those California activities and the individual  
24 plaintiffs’ claims. *Id.* at 1778-79.



1 The U.S. Supreme Court reversed, holding BMS could not be subject to specific  
 2 jurisdiction in California with respect to the non-California plaintiffs' claims. The Court explained  
 3 that the "'primary concern' is 'the burden on the defendant.'" *Id.* at 1780 (quoting *World-Wide*  
 4 *Volkswagen*, 444 U.S. at 292). This "burden" is not a matter of mere inconvenience, but is rather  
 5 a fundamental due process concern: "restrictions on personal jurisdiction . . . 'are a consequence  
 6 of territorial limitations on the power of the respective States.'" *Id.* (quoting *Hanson v. Denckla*,  
 7 357 U.S. 235, 251 (1958)). For a court to exercise specific personal jurisdiction, there *must* be a  
 8 connection between the defendant, the forum, and the underlying claims. "When there is no such  
 9 connection, specific jurisdiction is lacking *regardless of the extent of a defendant's unconnected*  
 10 *activities in the State.*" *Id.* at 1781 (emphasis added). The Supreme Court thus rejected  
 11 California's "sliding scale approach," which, the Court remarked, "resembles a loose and spurious  
 12 form of *general* jurisdiction." *Id.* (emphasis added). BMS's forum contacts that did not cause the  
 13 plaintiffs' specific claims were not "sufficient – or even relevant" – to the specific jurisdiction  
 14 analysis. *Id.* at 1782.

15 Here, only one named Plaintiff – Maadanian – alleges he resides in Washington. SAC ¶  
 16 13. No other Plaintiff alleges any connection whatsoever with Washington. *See id.* ¶¶ 15-66.  
 17 Thus, the only nexus between those Plaintiffs' claims and Washington is that those Plaintiffs  
 18 allegedly experienced the same injury as Maadanian. Even assuming Maadanian experienced a  
 19 relevant injury in Washington, under *Bristol-Myers* such injury is an insufficient basis to assert  
 20 personal jurisdiction over Defendants with respect to the non-residents' claims. Where "[t]he  
 21 relevant plaintiffs are not residents" of the state in which the action is brought "and do not claim  
 22 to have experienced harm in that State," there can be no personal jurisdiction over their claims  
 23 because "the conduct giving rise to the nonresidents' claims occurred elsewhere." *Bristol-Myers*,  
 24 137 S. Ct. at 1782.



1 The Supreme Court’s recent decision in *Ford Motor Co. v. Montana Eighth Judicial Dist.*  
 2 *Court*, 141 S. Ct. 1017 (2021), is not to the contrary. While that decision found specific jurisdiction  
 3 over Ford Motor Company in two cases involving vehicles that were not manufactured or  
 4 originally sold in the forum states, the Court specifically distinguished *Bristol-Myers*. The Court  
 5 explained that, while “Ford sold the specific products in other States, as Bristol-Myers Squibb  
 6 had . . . here, the plaintiffs are residents of the forum States. They used the allegedly defective  
 7 products in the forum States. And they suffered injuries when those products malfunctioned in the  
 8 forum States.” *Id.* at 1031. The Court expressly reaffirmed its holding in *Bristol-Myers* that there  
 9 is no specific jurisdiction where the forum “lack[s] any connection to the plaintiffs’ claims,” even  
 10 if the plaintiffs are all alleging the same defect in the same product. *Id.* (noting the out-of-state  
 11 plaintiffs in *Bristol-Myers* were apparently “forum shopping”).

12 It makes no difference that non-Washington plaintiffs bring their claims as a putative class  
 13 action in federal court because “the overwhelming majority of federal courts that have considered  
 14 it . . . across the country . . . have held that *Bristol-Myers* applies to claims brought by named  
 15 plaintiffs in class actions.” *Goldstein v. General Motors LLC*, 445 F. Supp. 3d 1000, 1011-1012  
 16 (S.D. Cal. 2020) (citing numerous decisions). As a result, courts have regularly dismissed the  
 17 claims of non-resident named plaintiffs in similar cases. *See also, e.g., Spratley v. FCA US LLC*,  
 18 2017 U.S. Dist. LEXIS 147492, at \*17-\*22 (N.D.N.Y. Sept. 12, 2017) (dismissing for lack of  
 19 personal jurisdiction claims of named plaintiffs who neither resided in nor purchased their vehicles  
 20 in the forum state); *Gaines v. General Motors, LLC*, 2018 U.S. Dist. LEXIS 133019, at \*6-\*7 (S.D.  
 21 Cal. Aug. 7, 2018) (same).

22 This Court should therefore, at a minimum, dismiss the claims of the 25 non-Washington  
 23 named plaintiffs for lack of personal jurisdiction.

### 3. The Presence of a Third-Party Affiliate in Washington Does Not Subject Defendants to Personal Jurisdiction

Plaintiffs seek to avoid dismissal by asserting that “MBG maintains a major office of its subsidiary, Mercedes-Benz Research & Development North America, Inc. (‘MBRDNA’)” in Seattle. SAC ¶ 11. As noted, Plaintiffs’ claim that this creates jurisdiction under 18 U.S.C. § 1965(d) misses the mark completely. *See supra* at 5-6. Plaintiffs also try to bootstrap jurisdiction over the German defendants based on alleged U.S. activities of MBUSA, including its registration to do business in Washington. SAC ¶ 72. The existence of a subsidiary or affiliate in Washington, however, does not create the minimum contacts necessary to assert jurisdiction over any Defendant in this case, and conclusory allegations about the relationship among the various Defendants and with MBRDNA does not suffice to overcome this problem for Plaintiffs.

To begin with, “[t]he existence of a relationship between a parent company and its subsidiaries is not sufficient to establish personal jurisdiction over the parent on the basis of the subsidiaries’ minimum contacts with the forum.” *Doe v. Unocal Corp.*, 248 F.3d 915, 925 (9th Cir. 2001); *accord Ranza v. Nike, Inc.*, 793 F.3d 1059, 1070 (9th Cir. 2015), *cert. denied*, 577 U.S. 1104 (2016); *Lee v. Abdel-Haq*, 2013 U.S. Dist. LEXIS 20260, at \*13 (W.D. Wash. Feb. 14, 2013) (“Corporate entities are presumed to be separate, and the jurisdictional contacts of one sister or parent company will not be attributed to a related company absent some showing that they are not really separate entities.”). Plaintiffs do not deny that MBRDNA is a separate and distinct company, regardless of its ownership affiliation with Defendants. *See also* Gunther Decl. ¶ 5. Plaintiffs acknowledge MBUSA is a separate company based in Georgia. SAC ¶ 71; *see also* Gunther Decl. ¶ 2.

Plaintiffs cannot manufacture jurisdiction with conclusory allegations that Defendants “directed the activities of MBRDNA” (*id.* ¶ 11) or did business “through” MBUSA. *See id.* ¶¶ 70, 71. Nor do conclusory allegations about “agency” or “alter ego” suffice. *See id.* ¶ 73. Jurisdiction cannot be established where, as here, the “complaint makes almost no factual allegations regarding

the nature of the [inter-corporate] relationship.” *Williams v. Yamaha Motor Co.*, 851 F.3d 1015, 1022 (9th Cir. 2017) (refusing to credit “conclusory” jurisdictional allegation that “Defendants . . . were the agents or employees of each other and were acting at all times within the course and scope of such agency and employment . . . and are legally responsible because of their relationship with their co-Defendants.”); *accord Axiom Foods*, 874 F.3d at 1071 n.5 (“Assuming, without deciding, that an agency relationship between Acerchem International and Acerchem UK would be relevant to the existence of *specific* jurisdiction,” plaintiffs “have not made a prima facie case for an agency relationship. . . . Nor have they spelled out an alter ego theory of liability allowing us to attribute the activities of the parent entity to the subsidiary.”); *see also Ratha v. Phatthana Seafood Co., Ltd.*, 26 F.4th 1029, 1041-1042 (9th Cir. 2022) (rejecting arguments that U.S. distributor was “agent” and “alter ego” of foreign supplier, pointing out, among other things, “generally, [a] purchaser is not ‘acting on behalf of’ a supplier in a distribution relationship in which goods are purchased from the supplier for resale”) (quoting *Murphy v. DirecTV, Inc.*, 724 F.3d 1218, 1232 (9th Cir. 2013) and Restatement (Third) of Agency § 1.01 cmt. g (2006)); *Cork v. CC-Palo Alto, Inc.*, 534 F. Supp. 3d 1156, 1191 (N.D. Cal. 2021) (“Plaintiffs’ alter ego allegations consist of two sentences: ‘CC-PA acted as the alter ego of CC-DG. CC-PA was so utterly controlled by CC-DG, directly and through CRMLP, that it effectively ceased to exist as a separate entity . . . .’ These are the type of conclusory allegations that will not suffice.”); *accord Lee*, 2013 U.S. Dist. LEXIS 20260, at \*13.

Moreover, even if MBRDNA’s activities in Washington could be imputed to any Defendant, or MBUSA’s could be imputed to the German Defendants, Plaintiffs have a larger problem here: Plaintiffs do not allege either affiliate was involved in any act or transaction *in Washington* that caused their alleged injuries. Plaintiffs do not allege MBRDNA manufactured, sold, marketed, or otherwise had any involvement with plaintiffs’ vehicles in Washington – or that MBRDNA interacted with any plaintiffs or their vehicles in any way. In fact, MBRDNA had no

involvement whatsoever with the brake boosters at issue – in Washington or anywhere else. Gunther Decl. ¶ 6. Nor is MBRDNA “essentially at home” in Washington; it is a Delaware corporation with its principal place of business in California. *Id.* Indeed, Plaintiffs acknowledge MBRDNA has multiple offices in the United States. *See* SAC ¶ 11 (characterizing Seattle office as “major office” of MBRDNA). *See also Kastigar v. Mercedes-Benz USA, LLC*, 2022 U.S. Dist. LEXIS 69714 (D. Ariz. Apr. 14, 2022) (finding no specific jurisdiction over MBRDNA for lack of relevant contacts with Arizona, even though it had an office there), *report and recommendation adopted*, 2022 U.S. Dist. LEXIS 116910 (D. Ariz. June 30, 2022). As noted *supra*, Plaintiffs similarly fail to connect any specific Washington contact of MBUSA to their claims.

Jurisdiction cannot be founded on the in-state activities of a third party that never carried out any activity in Washington related to the claims at hand. *See Bristol-Myers*, 137 S. Ct. at 1783 (that BMS contracted with McKesson, a California company, to distribute Plavix nationally irrelevant to jurisdictional analysis because “it is not alleged that BMS engaged in relevant acts together with McKesson in California”).

### CONCLUSION

The SAC places all of its jurisdictional marbles on a provision in a RICO statute that has no applicability to this lawsuit. It should be dismissed for that reason alone. Even if Plaintiffs can surmount that hurdle, they have failed to allege facts sufficient to show this Court has either general or specific personal jurisdiction over any Defendant satisfying the Due Process Clause of the United States Constitution. No Defendant is “essentially at home” in Washington, so the Court does not have general jurisdiction over Defendants. As to specific jurisdiction, Plaintiffs have not alleged activities of Defendants in or directed at Washington that purportedly led to their claims. Indeed, 25 of the 26 Plaintiffs allege *no relationship with Washington at all*, and for that reason alone *Bristol-Myers* mandates dismissal of their claims. For all these reasons, the Court should

1 dismiss the Second Amended Complaint pursuant to FRCP 12(b)(2) for lack of personal  
2 jurisdiction.

3 DATED: October 19, 2022

4 LANE POWELL PC

5  
6 By s/Erin M. Wilson  
Erin M. Wilson, WSBA No. 42454  
[wilsonem@lanepowell.com](mailto:wilsonem@lanepowell.com)  
7 s/John S. Devlin III  
John S. Devlin III, WSBA No. 23988  
[devlinj@lanepowell.com](mailto:devlinj@lanepowell.com)  
8 s/Taylor Washburn  
Taylor Washburn, WSBA No. 51524  
[washburnt@lanepowell.com](mailto:washburnt@lanepowell.com)  
9 s/Katie D. Bass  
Katie D. Bass, WSBA No. 51369  
[bassk@lanepowell.com](mailto:bassk@lanepowell.com)  
10  
11

12 1420 Fifth Avenue, Suite 4200  
13 P O Box 91302  
Seattle, WA 98111  
14 Telephone: 206-223-7000

15 SQUIRE PATTON BOGGS (US) LLP  
Troy M. Yoshino, *Pro Hac Vice Pending*  
16 Eric J. Knapp, *Pro Hac Vice Pending*  
[troy.yoshino@squirepb.com](mailto:troy.yoshino@squirepb.com)  
17 [eric.knapp@squirepb.com](mailto:eric.knapp@squirepb.com)

18 475 Sansome St. 16<sup>th</sup> Floor  
San Francisco, CA 94111  
19 Telephone: 415-964-0200

20 Attorneys for Defendants Mercedes-Benz  
USA, LLC, Mercedes-Benz  
21 Aktiengesellschaft, and Mercedes-Benz Group  
Aktiengesellschaft  
22  
23  
24  
25  
26

DEFENDANTS' MOT. TO DISMISS FOR  
LACK OF PERSONAL JURISDICTION - 16  
CASE NO. 2:22-cv-00665-RSL

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107